

Heber City Corporation
City Council Meeting
03/03/2011
7:00 p.m.

REGULAR MEETING

The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on March 3, 2011, in the City Council Chambers located at 75 North Main Street in Heber City, Utah.

Present: Mayor David R. Phillips

Council Members Nile Horner
Robert Patterson
Alan McDonald

Excused: Eric Straddeck
Benny Mergist

Also Present: City Manager Mark K. Anderson
City Recorder Paulette Thurber
City Engineer Bart Mumford
City Planner Allen Fawcett
Chief of Police Ed Rhoades

Others Present: Mark Rounds, Troy Bingham, Jan Olpin, Caleen Mawhinney, Ken McConnell, Colin Lacey, Bob Brandt, LuAnn Brandt, Druann Lacey, John Rimmasch, Paul Robertson, John Berry, Jerry Duke, Lynn Rasband, Larry Duke, Martin Van Roosendaal, Ben McNaughton, Lynette McNaughton, Craig Lacey, Cari Lewis, Mike Lewis, Steve Gibson, John Clarkson, Robyn Pearson, Tracy Taylor, Jen Davidson, Luke Peterson and others whose names were not legible.

Pledge of Allegiance: Councilman Alan McDonald

Prayer: Mayor David Phillips

Mayor Phillips excused Councilman Straddeck. He indicated that Councilman Mergist would be calling in later in the meeting to participate in some of the issues to be discussed. He also wished Chief Rhoades a Happy Birthday.

Minutes: February 17, 2011 Work Meeting – January 20, 2011 Regular Meeting

Councilman McDonald moved to approve the above listed minutes. Councilman Patterson made the second. No discussion. Voting AYE: Nile Horner, Robert Patterson and Alan McDonald. Councilmen Straddeck and Mergist were absent.

Jason Thomas – Presentation – icount website – A website designed to improve

Communication between Government and Citizens (Tab 1): It was indicated that Jason Thomas and his wife had a baby yesterday so Troy Bingham was in attendance to take his place. Bingham expressed appreciation for the opportunity to explain the website and program to the Council. The website was called icount.com and addressed the needs of the citizens as well as the politicians. He said that every citizen had 15 political representatives. It was, consequently, difficult to make contact with everyone of them. At this time an overhead presentation was made. (See attachment) It was shown that input onto the system would validate that the respondent was a person living within the City. Bingham reviewed other aspects of the website and explained what it could do for the City. He reviewed that it was a benefit to the citizens because they just had to go to one central location to make contact with political representatives. He reviewed the benefits for the officials, as well. He said messages could be created, polls created and information published. Bingham said other cities had been giving notices of polls, etc., in their utility billing and especially if there was a particular issue they could bring attention to that via the billing. Bingham said the basic service was free and an upgrade would be \$50 month.

Councilmen Horner and Patterson liked the concept. Councilman McDonald wanted to think about it for a while. He said, though, if a poll went out on this website, he wanted it approved unanimously by the Council first. Mayor Phillips indicated that because two Council members were not in attendance, the Council would talk together, probably during budget discussions, and get back to Bingham.

Kenna Jones – Children’s Justice Center – Request for Contribution (Tab 2): Councilman Patterson moved to take this request into consideration during budget sessions. Councilman McDonald made the second. No discussion. Voting AYE: Nile Horner, Robert Patterson and Alan McDonald. Councilmen Straddeck and Mergist were absent.

Steve Gibson – December 19, 2010 – Muirfield Flood (Tab 3): Gibson indicated the City had moved quickly to get the culvert in on 600 West and he appreciated that. He said he had gotten a report back from the City’s insurance company which stated the adjustor had looked at the reports of the soil tests done prior to development and said they were appropriate and accurate. However, he wondered if there were errors made in those reports and questioned if the subdivision was put together correctly. Councilman McDonald said he was not on the Council at

the time it was developed; but, his personal opinion was that the area was a swamp and there were springs in the area. In his opinion, basements should not have been allowed. Gibson said he was not questioning this particular Council but wondered if there were some mistakes made. He said there were 8 homes flooded this last time and on average, it cost approximately \$4,000 each time to make repairs. Gibson said this made four times this subdivision had been flooded. He thought that in the course of ten years, that was a lot of basements to be flooded. He talked about the total cost over the years to the homeowners. He asked the City for assistance and thought that was an appropriate thing to do because, in his opinion, it was a City issue not just a neighborhood issue. He thought it was the responsibility of Heber City to keep the water from eroding the foundations of the homes in the area. He said he appreciated the culvert but wondered if the money would have been better spent to lower the ground water. Councilman McDonald did not think that field/area could be drained. He said it was a spring area and he did not know if the problem could be fixed. He suggested the developer be asked for help. Councilman Horner asked Mumford if that could be reevaluated and deemed part of the flood plain. Gibson indicated the homeowners could not even purchase flood insurance. Councilman Horner said he did not think they could be helped until the area was designated a flood plain or high water area. If that happened and at that time, the City could then look at it. He thought that was the way to proceed first. Mumford said he did not think it was designated in the FEMA plain right now. He said ground water was probably not covered but surface water might be. Everything he had ever worked with was surface water through FEMA and not ground water.

Councilman Horner said he had some experience with this issue with his home because he ran into an underground channel. Because of that, he said he could not purchase flood insurance. He thought it did pertain to ground water. He said surface water was different because it was controllable; but with ground water it was harder to control. He thought it was opposite of what Mumford was saying. Gibson said he believed Allstate Insurance had a checklist, and the City had to be involved, but it took both the federal government and the local government working together to get some help. Gibson said he would get as much information from Allstate and forward it on to the City. Councilman McDonald said he wanted to be as much help as possible.

Heber Valley Historic Railroad Authority – Craig Lacey – Consideration of Resolution 2011-04 – A Resolution to Adopt a Promissory Note and Security Agreement between Heber Valley Historic Railroad Authority and Heber City Corporation (Tab 4): Anderson called Councilman Mergist on the telephone as he had expressed a desire to participate in the conversation of this topic. He was put on speaker phone. The connection was bad and phone batteries got low, so he was unable to participate in much of the dialogue.

Craig Lacey. Lacey introduced the Board of the Heber Valley Railroad Authority. He recognized some other people in the valley that were supporters. Lacey read from a prepared document which reviewed his personal history with the railroad. (See attached) Lacey pointed out the

railroad had a good track record with the City and that they had paid back loans to the City timely in the past. He said the Board had a comprehensive, viable plan for the future but they needed some time.

Mayor Phillips asked for feedback from the audience.

John Rimmasch - Representing Wasatch Railroad Contractors. He asked by a show of hands who was attending in support of the railroad. Most in the audience raised their hands. He said he and his staff supported the railroad, as well. He asked to recap the meeting of the Board of Directors meeting earlier in the day. He said he was sensitive to the situation because he was a former resident of Heber and a former employee of the railroad. He said the community had an opportunity to support the railroad right now rather than criticize the railroad. He indicated his staff had been putting together a document that would propel the railroad in the future which would be a private/public partnership with very specific goals and objectives-reduce debt, enhancements, and create more of a tourism/destination point for the railroad overall. He said his motivation for putting the plan together was because he and others cared about the community and the railroad. He suggested that to see the railroad fail would be devastating to the City. He said it could be clearly seen, looking back over the years, that the railroad had gone through various cycles. He said the plan presented to the Board of Directors was received well today but there had been no formal action taken. He continued that the heart of the matter was through a private/public partnership and felt making some changes would allow success for the railroad. He said the people of the railroad had done a good job and he believed the community had to support the railroad.

Bob Brant – Brant indicated he had sent an e-mail to the Council earlier in the week to consider this request and suggested it was a small price to pay. He thought their request was a grant. He thought it was honorable they were asking for a loan that would be paid back rather than a donation.

Ken McConnell, Chairman of Railroad from 1992-1996. McConnell indicated a survey was taken in 1992 and it was determined that the businesses in town lost money when the train was not in service. After it was closed for a period of time and then reopened, another survey was taken and it was found the businesses were getting their money back that was lost. He suggested the railroad was an important asset to this community. With the help of the City Council, they could continue on with new plans and new ideas. He reviewed that the railroad had come from an empty lot and construction trailer to what they were now because of the support of this community.

Ralph Gochnour - Salt Lake City resident but an observer of the Railroad since its inception. He said he had heard over and over tonight the passion of the people for this Railroad. He wanted to

tell the Council he hoped they knew what they had here. He subscribed to a number of magazines. Very often in these magazines there were articles and pictures of this Railroad that were seen all over the world. He talked about his family reunions here that involved 80 or more people. They stay in the hotels, eat in the restaurants and ride the train. He hoped the Council realized what they had and do what they could to keep it here--once lost the City would probably never get it back.

Anthony Kohler - Heber City directly and indirectly provides support for many non-profit organizations. Some include Cowboy Poetry, Children's Justice Center, Native American Gathering, Farmers Market, High School Rodeo, Community Alliance for Main Street, DUP, TVT, Wasatch County Senior Center, Wasatch County Fair, Friends of Animals, etc. Some support was in the form of low rent, not charging fees, or donating money. The difference between all those organizations and the Railroad was they asked for a gift but the train was only asking for a loan. He talked about the benefits of the Railroad. The Council had worked via the budget to work toward a good public purpose. Kohler talked about other communities that give tax credit and tax incentives and thought that was well within the Council's purview to do.

Lynn Rasband – Member of the Board - Probably the oldest person in attendance knowing about and seeing the train because of his father and the coal industry. He indicated he loved the train. He said they were working hard as a Board to make this more delightful and more supportive of Heber City.

Jan Mahoney Olpin - Talking in behalf of her dad. She said the train meant a lot to her family and a lot to the community. She sees the train going up a hard hill right now and saying, "I think I can, I think I can, I think I can." If the City would just give it a little push the train would say "I will."

Councilman McDonald asked Lacey if Adobe helped out a lot. Lacey said yes, they had given \$150,000 to the railroad. Lacey said the request for a loan of \$50,000 from Heber City would buy time until they could get some other things in place.

Councilman Horner asked if Lacey had gone to Wasatch County. Lacey indicated they had a County Councilman on the Board and indicated the County had put them at arm's length until they had a comprehensive plan in place. Councilman Horner said he had the same concerns and even greater now knowing they had received \$100,000 from Adobe since they had last requested funds from the City. He suggested since no new plan was in place, he did not think the \$50,000 would help. He said he loved the train but he believed it was time to really realize the train was in dire straits and it was time to get the plan and know exactly what the plan was. He mused that maybe the public/private venture was the right thing; but if the train was to be saved, the Council needed to know what exactly it was going to take. He did not think it was right the City gamble

with \$50,000 because, in his opinion, it was not going to save the train. He wanted to know exactly how much it was going to take so the community could come together. Lacey said the \$50,000 was not the end all but it would give them time to put other things in place--it bought them time to put the plan together. With the \$50,000 they could get through to Day Out with Thomas. Lacey said they were asking for the least amount possible.

Mayor Phillips said he appreciated what they were trying to do. He said they had been to the City three times and had paid it back every time. He reviewed that this would get them to May when they would have income coming in.

Councilman Horner said this was different because those other times they could see a light at the end of the tunnel. This time there was no light. He wanted the community to get on board, as well as Wasatch County. He said he was afraid the City would give the \$50,000 and still lose the train. He did not want to gamble with the City's money.

Councilman McDonald said he appreciated Lacey's predicament. He read his prepared statement. (See attached) In summary, he supported the train but wanted them to expand their request to the State, Wasatch County and the Wasatch County Economic Board. He said the City had its own financial issues in the down economy.

Councilman Patterson indicated he had talked to Lacey and was in support of the railroad. He said it was an icon in this community and around the world. He suggested this was not a loan to save the train but rather it was a bridge loan. He said, too, that the Council gave donations / gifts to others in the valley and that was also taxpayers' money. He said he did not want to lose the train. He indicated he liked the idea of the private/public plan of Rammisch. He said again he would support loaning the money. He suggested it would be a sad situation if the City lost the train because it brought economic resources to this valley.

Druann Lacey - She did not understand how the Council could give money to all those other organizations and not support the train. She said \$12,000,000 came into this valley because of the train. She said the City wanted and needed those funds as did the County and the State. Other than a private company, Adobe, no one had stepped up with one penny. She said they had sacrificed the entire growing-up years of their boys because their father, Craig, worked 80 hours a week trying to keep the train on the map. She said it was underfunded to begin with and the City and County and State were not stepping forward. She said that was a disgrace.

Tracy Taylor – She thought everyone in this valley loved this train. It made her sad to see this happen. She did not understand why Heber City was the only one trying to handle this and said the County and the whole valley should be pulling together for this train because it was a community issue. She offered to help organize to get this taken care of. She did not think that

one governmental entity out of this entire community had to do this alone. Why can't we get something set up, year in and year out, and use Transient Room Tax. She said Luke Peterson was making a salary to bring development into this community—he needed to get on board to make this a viable business. She said she wanted to see the business plan as she was a marketing person. She also thought an audit was a good idea. She did not see this as the end of the discussion and felt the community would pull together to save the train.

Colin Lacey – Colin said he had seen the burden this had been on his father and that his father had been crawling on his knees basically to get help from the County, State, and the City. He said the issue with the State was because there was no help from the County and City. He indicated he knew the \$50,000 was not enough but it would keep the train going and allow time to get a new plan in place. He thought it would be irresponsible of this Council to deny this request. He suggested one good way to not throw away the \$50,000 was to get continual funding from the Transient Room Tax.

Robyn Pearson – Pearson said for almost ten years he was Chairman of the Board for the train and still had a lot of passion and care for it. He said his career was in community development. He suggested the way to measure a community was not by the money it had but by how the community measured up. He said this community had measured up well. He recalled how the train had started out by a private venture. He continued that an effort was made to save the train years ago. He said when a community lost the benchmark of its community, the fabric of the community changed. He gave some history of how the train was saved initially and that if it hadn't been for Mayor Scott Wright, the train would not have been saved. Pearson continued that there was not a county in this State that got as much economic benefit from tourism and other activities as this county did—almost three times than the average county in this State. He talked about the minutes to the meeting from the State Legislature. He said it was in the minutes that Mel Brown said don't come back. We'll give you 1.4 million dollars of State money but don't come back. If your community doesn't want it, the State can't continue to fund it. However, all that did was turn on the faucet. He continued if there wasn't some type of real earnest effort from the community, there was no amount of persuasion that would change the State's mind. He thought there were solutions, however, and the paradigm had shifted--but the bottom line was do you want to save the train. He suggested for every dollar invested, multiple dollars come back. "We have come this far. I would not want to be an elected official that on my watch I let the community down by letting the train fail" he said. Pearson indicated the insurance and benefit package was under the umbrella of the State for the employees of the train and that there was a lot of support from State officials. He said the State had done an audit. He reminded everyone that the land where the depot sits now was owned by Heber City and donated to the train. He suggested it was time for new vision but it was not time to abandon the train. He told the Council to accept the reality that if the train closed, our community would change.

Councilman Horner asked Pearson how they could, as a Council, help facilitate with Wasatch County and the State to get this new vision and move the train forward rather than loan the \$50,000. Pearson said he knew what made this community because he was the economic developer for 15 years. When a community is invested in, there would be return on that investment. He thought the State would step up if the community stepped up. He suggested nobody had worked harder for this community than Lacey. He told the Council they would lose a valuable asset and resource if they lost the train. Every community in the State was on the same slump but the ones that had ingenuity would come ahead. Pearson said he would be a support from the State level but the heavy lifting had to come from the community. He visualized that solutions would come forth from places not imagined. He encouraged a co-meeting from the different community entities and said that needed to take place.

Mayor Phillips said that as a member of the Executive Board he could second Pearson's comments about Lacey. Nobody had worked harder in this community than Lacey towards the train. Speaking as the Mayor he did not get to vote; but if he could, he would vote to make a bridge loan to keep the train alive. The rationale the Council had used in the past to make a loan was to support the businesses of this community. We would be in a strong position if we locked arms with the County, made the loan, and then went to the State. He said there were several good causes that come to the City for help and this should be no exception.

John Berry - A lot of good things have been said. One thing that stood in his mind was that in the early 1970's, the Oregon Short Line locomotive stood next to this hole that was being dug. This locomotive was a liability and was going to be buried. That would be undoable. Berry said he was married in 2001 and his wedding was on the train. Three hundred people were on the train with him and his bride. He would not trade that experience for anything. That would not have happened if that locomotive had been buried. He suggested the community was to the point of doing something undoable. He pleaded with the Council to not let that happen. He said the City was not going to lose this investment. Berry talked about the train carrying the Olympic torch across the valley and said national news focused on the train that day and every so often was shown again and that was national advertisement for Heber and worth more than \$50,000. He reminded the Council that the railroad brought people into the City. He suggested that this loan request of \$50,000 would fill in the hole.

John Rammisch – He very much appreciated Councilman Horner's question of what to do to initiate the partnership between the County or State or others. He said he was an action-oriented individual. He said the City Council was in a position tonight to say they had heard from the citizens and there was support and interest in saving the train. He said the Council was in the position to provide X (whatever X was) as long as the County Council was willing to provide X as well. Combined with the City, County, Pearson's pledged of State support, and everyone else they should now write a letter of support. Then let the County give a letter of support.

Councilman McDonald said get Charleston, and Midway involved. He would be willing to do that. He thought there were individuals and businesses that would also support.

Anderson said back in 1990, he accompanied Mayor Scott Wright to Governor Bangarter's office. As they met with Governor Bangarter, the purpose was to make sure he was not opposed to the legislation what was being passed by the House and Senate. At that time Heber City spent \$40,000 to buy the parcel that Parson's concrete batch plant now sits on. Heber then traded that land for the parcel the railroad station was now on. That was to show to the Legislature good faith on the part of Heber City. He said he was on the train when the Olympic Torch was carried by the train. He said his disabled son loved the train. He continued the train had 2.4 million dollars in assets. There was enough equity there that the City would get their money back. Inaction by this community would guarantee that this community would lose money every year from here on out if the train was not saved.

John Rammisch – Rammisch said he was the engineer of the train when the Olympic Torch was taken and that was a great opportunity. He said he was one that puts his money where his mouth was and committed, as Chief Executive Officer of Wasatch Railroad Contractors, \$2,000 in cooperation with the City, County and other entities that were willing to donate to the railroad. He made a strong appeal for others to do the same.

Luke Peterson - Peterson echoed the things said. He said the train was an incredible asset to this community and he was terrified of losing it. He indicated he had spent a lot of time with Lacey working on this new plan. He felt the economy was turning for the better. He said there were a number of businesses that were hanging on by their fingernails--one being the train. He worried about the domino effect--if the train failed, those other businesses that were hanging on would also fail. He said this was very important to Main Street.

Councilman McDonald said he would not mind matching what the City gives to Cowboy Poetry. He would give a \$15,000 donation and ask other community entities to do the same. He wanted the whole community to come together and make a contribution.

Councilman Patterson moved to give a \$50,000 loan to the train. He said that would be an investment to the community. Motion failed due to lack of a second.

Councilman McDonald moved to make a \$15,000 contribution to the railroad and challenged Midway, Charleston, and Wasatch County to get on board as well as private individuals and businesses. Councilman Horner wanted to add to the motion that the Council not only challenge the other entities but the City Council go with the Railroad Board to the County and other entities to try and help facilitate loans and/or donations. Councilman McDonald agreed to add that to his motion. Councilman Horner made the second.

Mayor Phillips explained there had to be three affirmative votes to pass when there were only three members present. Anderson suggested the Wasatch County Economic Board should also be approached. Councilman McDonald felt Luke Peterson should spearhead this.

Voting AYE: Alan McDonald. Voting NAY: Nile Horner and Robert Patterson. Motion failed.

Councilman Patterson moved to give \$15,000 donation and \$33,000 as a loan and approach other County entities and the Wasatch County Economic Development Committee for funding. Motion died for lack of a second.

Councilman Horner moved the City approve a \$48,000 loan conditioned on approval of an agreement with Wasatch County and other entities in the community to help as well and get involved. It was clarified that the loan would not happen if the County did not help. He said he was willing to give \$15,000 tonight.

Mayor Phillips asked the Council if they would consider a grant of \$15,000. There seemed to be unanimous consent. Councilman McDonald moved to give a grant of \$15,000 to the Railroad. Councilman Horner made the second. It was pointed out by the City Recorder that Councilman Horner already had a motion on the floor. Councilman Horner withdrew his previous motion. Voting AYE: Nile Horner, Robert Patterson and Alan McDonald.

Councilman Horner suggested the Council go to other meetings with the Board and help facilitate the acquisition of funds and solicit help from Midway City, Wasatch County, Charleston and any other possible investor.

Mayor Phillips asked if the City would be willing to match what others would give in the form of a loan. Councilman McDonald said he would be willing to do that. Councilman Horner said he would be willing to match up to \$10,000 to get to the \$50,000

Councilman Horner made a motion to loan the railroad up to \$10,000 if other entities in the community could come up with the other \$23,000. Councilman McDonald made the second. Voting AYE: Nile Horner, Robert Patterson and Alan McDonald.

Councilman Patterson said this whole process had been appalling to him and again expressed his support for the train.

Approval of Farmers Market season Dates and Proposed Fees: Mayor Phillips said this event had become a great success. He indicated this discussion should be based on a request from staff for a longer season and additional fees.

Councilman McDonald said he favored extending the market two weeks. He suggested there were some needed repairs at the park to be made. He said he would like to charge enough to cover the City's costs first and if there was any money left over, those monies be put towards the veterans' memorial at the cemetery. Discussion about a per-night cost versus a seasonal cost. Anderson said a per-season cost was easier to collect. Kohler felt for Hansen to collect one check per season was better than collecting every night; otherwise collecting would take Hansen away from other duties she should be doing. Councilman Horner suggested \$20 a night if using electricity and \$10 a night otherwise. Anderson and Kohler both said that much of a fee would cause vendors to leave because the City was competing with the Park City and Provo markets. Councilman McDonald wondered if the Lions Club or Rotary Club could now take over and the City just charge them a fee for using the park.

Chief Rhoades said as he talked with the Warrens and learned the reason people come to Heber's market was the fee schedule and that that information was considered when the committee and staff met. He said people were coming to Heber because of the atmosphere and because of the price. He suggested the vendors could come to Heber's market, enjoy themselves and still make a profit. He did not think the vendors would come if the price was increased by five times and felt any increase had to be done over a period of time. Chief Rhoades continued this was still a growing event for Heber and could turn into a major event. He suggested this market was starting to be one of those things the community looked forward to but the City would lose vendors if the price was increased drastically.

Anderson said he looked at this event as providing something good for the community that didn't cost the City a lot of money. He indicated Paul Askins was the person that got the bands together in which Am Bank was the main sponsor. He said Am Bank contributed \$4,000 last year for the bands and the City contributed \$1,000.

Discussion about Police presence and limited Animal Control presence as well as the Parks Department people being there to keep the bathrooms cleaned and help clean up. Chief Rhoades said he planned to use C.E.R.T. people this year and was also going to try and have two reserves there each night.

Additional discussion about the fees as recommended by staff.

Councilman Horner moved to charge \$100 per season and \$125 per season if the vendor needed electricity and if paying per night, \$20 and \$25 and add an additional two weeks to the schedule. Councilman McDonald made the second. Voting AYE: Nile Horner, Robert Patterson and Alan McDonald. Councilmen Straddeck and Mergist were absent.

As there was no further business, the March 3, 2011, Heber City Council meeting adjourned at 9:58 p.m.

Paulette Thurber, City Recorder

Approved 05/05/2011